

UNITED STATES DISTRICT COURT OF THE DISTRICT OF OREGON
PORTLAND, DIVISION

SANDRA PETERSEN and KINGWOOD,
TRUST.,

Plaintiffs,

vs.

CITY OF MANZANITA, OREGON.

Defendants.

Case No.: 3:18-cv-01143
DECLARATION OF KEVIN O'CONNELL

I, Kevin O'Connell, hereby declare:

1. I am an attorney licensed by the state of Oregon to practice law before the Courts of the State. I am also admitted to this Court.

2. I am a member of Hagen, O'Connell & Hval, LLP. Joseph T. Hagen and I have been engaged by Plaintiffs for their representation in this proceeding.

3. Attached hereto is a copy of the deed (Exhibit 1) by which Plaintiff, Kingwood Trust, acquired the property at 181 Edmund Lane, Manzanita, Oregon 97131, which property is the subject to the claims in this case. This deed reflects a purchase price in 1998 of \$189,000.00.

Page 1 – DECLARATION OF KEVIN O'CONNELL

1 4. I am attaching a copy of the property tax statement (Exhibit 2) related to 181
2 Edmund Lane, Manzanita, Oregon 97131, which reflects the current value of \$395,920.00.

3 5. I am attaching citations 17-V-000524 A/B, 17-V-000525 A/B, 17-V-000526 A/B,
4 17-V-000580, 17-V-000581, 17-V-000582 A/B (Exhibit 3) and the Order to Show Cause (Exhibit
5 4) concerning a violation of Voluntary Compliance Agreement.

6 6. The hearing on these matters is scheduled for August 10, 2018.
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11 Dated this 27 day of June, 2018.
12

13 Submitted by:



14 Kevin O'Connell, OSB No. 66092
15 Hagen O'Connell & Hval LLP
16 8555 SW Apple Way, Suite 300
17 Portland, Oregon 97225
18 Telephone: (503) 227-2900
19 Facsimile: (503) 227-3870
20 koconnell@hagenoconnell.com
21
22
23
24
25
26



STATUTORY WARRANTY DEED

CATHERINE FROST FRIAR, also appearing of record as KITTA F. FRIAR as an estate in fee simple
 conveys and warrants to JEWEL M. BRUSH and SANDRA J. PETERSEN, as Trustees for KINGWOOD CO., A TRUST, Grantor,
 the following described real property free of liens and encumbrances, except as specifically set forth herein:
 PARCEL 3, PARTITION PLAT NO. 1992-7, recorded April 17, 1992, in Plat Cabinet B-339-1 of Partition Plat Records of Tillamook County Oregon, and being situated in Section 29, Township 3 North, Range 10 West of the Willamette Meridian in Tillamook County Oregon, Grantee,

This property is free of liens and encumbrances, EXCEPT: as more particularly set forth on attached schedule, marked Exhibit A, and by reference incorporated wholly herein

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$ 189,000.00 (Here comply with the requirements of ORS 93.030)

Dated this 9th day of MARCH 1998

Catherine Frost Friar
 CATHERINE FROST FRIAR

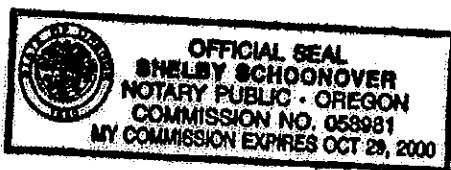
STATE OF OREGON
 County of Clackamas } ss.

BE IT REMEMBERED, That on this 9th day of March, 19 98, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named

Catherine Frost Friar

known to me to be the identical individual she described in and who executed the within instrument and acknowledged to me that THEY SHE executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Shelby Schoonover
 Notary Public
 My Commission expires 10/29/2000



EXHIBIT "A"

1. Regulations, including levies, liens, assessments, rights of way, and easements of NEHALEM BAY WASTEWATER AGENCY.
2. The rights of the public in and to that portion of the premises herein described lying within the limits of roads, streets and highways.

3. An agreement created by instrument, including the terms and provisions thereof,

Dated: April 5, 1938

Recorded: April 8, 1938, Book 78, Page 129, Records of Tillamook County, Oregon.

In favor of: Mountain States Power Company

For: Access and utilities

(Covers additional land)

Title Order No. 650275

Escrow No. 9715847

After recording return to:

JEWEL M. BRUSH

15929 MAIN ST.

BELLEVUE, OR 98008

Name, Address, Zip

Until a change is requested all tax statement shall be sent to the following address.

JEWEL M. BRUSH

15929 MAIN ST.

BELLEVUE, OR 98008

Name, Address, Zip

98367271

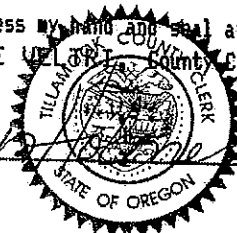
I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.

MAR. 19 3 07 PM '98

BOOK 394 PAGE 612

Witness my hand and seal affixed.
JOSEPHINE WELTON, County Clerk

Susan, DEPUTY
DWARR 10.00
A&T 20.00
ADMIN 1.00
PLCP 9.00



REAL PROPERTY TAX STATEMENT
JULY 1, 2017 TO JUNE 30, 2018
TILLAMOOK COUNTY, OREGON
201 LAUREL AVE
TILLAMOOK, OREGON 97141

TAX ID:
390390

PROPERTY DESCRIPTION

CODE: 5611
MAP: 3N1029CA04702
ACRES: 0.09
SITUS: 181 EDMUND LN MANZANITA
LEGAL:

PETERSEN, SANDRA J &
 % KINGWOOD CO
 PO BOX 792
 GREENACRES, WA 99016

SCHOOL 56 1,330.98
 NW REGIONAL ESD 45.49
 TILLAMOOK BAY CC 77.96
EDUCATION TOTAL: 1,454.43

TILLAMOOK COUNTY 458.02
 COUNTY LIBRARY 192.24
 SOLID WASTE 12.00
 CITY OF MANZANITA 125.20
 NEHALEM BAY FIRE & RESCUE 340.12
 NEH BAY WASTEWATER 120.91
 PORT OF NEHALEM 33.60
 4H-EXTENSION SD 20.41
 EMCD-911 55.69
 NORTH CO REC DIST 232.49
 NEH BAY HEALTH DIST 9.14
 TILLA TRANSPORTATION 59.15
 TILLA SOIL & WATER CONS 17.75
GENERAL GOVT TOTAL: 1,676.72

COUNTY LIBRARY 16.24
 TILLA CNTY BONDS AFTER 2001 84.03
 SCHOOL 56 BONDS AFTER 2001 153.94
 TILLA BAY CC BONDS AFTER 2001 44.10
BONDS - OTHER TOTAL: 298.31

VALUES	LAST YEAR	THIS YEAR
REAL MARKET		
LAND	219,000	236,500
STRUCTURES	151,030	159,420
TOTAL RMV	370,030	395,920
TOTAL ASSESSED	287,150	295,760
EXEMPTIONS		0
NET TAXABLE:	287,150	295,760
TOTAL PROPERTY	3,330.81	3,429.46

ASSESSMENT / TAX QUESTIONS (503) 842-3400
 www.co.tillamook.or.us 1-800-488-8280 X4002

2017 - 2018 TAX (Before Discount) 3,429.46

PAYMENT OPTIONS

Date Due	3% Option	2% Option	Trimester Option
11/15/17	3,326.58	2,240.58	1,143.16
02/15/18			1,143.15
05/15/18		1,143.15	1,143.15
Total	3,326.58	3,383.73	3,429.46

TOTAL DUE (After Discount and Pre-payments) 3,326.58

↑ Tear Here

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

Tear Here ↑

2017 - 2018**PROPERTY TAXES****TILLAMOOK COUNTY REAL****TAX ID. 390390**

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%					11/15/17	3,326.58
or 2/3 Payment Enclosed	2%	05/15/18	1,143.15			& 11/15/17	2,240.58
or 1/3 Payment Enclosed	0%	05/15/18	1,143.15	& 02/15/18	1,143.15	& 11/15/17	1,143.16

(UNPAID DELINQUENT TAX INCLUDED IN PAYMENT AMOUNTS)

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE☐ Mailing address change on back

Enter Payment Amount

\$

PETERSEN, SANDRA J &
 % KINGWOOD CO
 PO BOX 792
 GREENACRES, WA 99016

MAKE PAYMENT TO:
TILLAMOOK COUNTY TAX COLLECTOR

3902 - 021847 - 332658

2910000390390000011431600002240

EXHIBIT**2**

CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: January 12, 2015 - December 31, 2016 and January 1, 2017 - September 29, 2017

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Peterson
Physical Address: _____
Mailing Address: PO. Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2

hereby; ☐ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☒ Made Available
by committing or permitting, a violation a dwelling unit on a short term rental basis without first obtaining
the required City license from January 12, 2015 through December 31, 2016 (prior ordinance).

The maximum fine for this Class n/a Violation is \$500.00 per day, per violation.

B. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2

hereby; ☐ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☒ Made Available
by committing or permitting, a violation a dwelling unit on a short term rental basis without first obtaining
the required City license from January 1, 2017 through September 29, 2017 (current ordinance).

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date
and time specified will result in a default judgment being entered against you in favor of the City of
Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed,
or permitted to be committed, the violation(s) shown.

Date issued 10-4-17

By: Judy C. Wilson
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, October 13, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

EXHIBIT

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CITY OF MANZANITA
CITATION AND COMPLAINTIn the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: January 12, 2015 - July 31, 2016 and August 1, 2016 - September 29, 2017The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)**Violator:** Name: Sandra J Peterson
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016**A. Did unlawfully and in violation of Manzanita City Ordinance 87-5 Section 6**hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to register with the City Tax Administrator prior to commencing
business as Transient Lodging from January 12, 2015 through July 31, 2016. (prior ordinance)
The maximum fine for this Class n/a Violation is \$500.00 per day, per violation.**B. Did unlawfully and in violation of Manzanita City Ordinance 16-03 Section 6(A)**hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to register with the City Tax Administrator prior to commencing
business as Transient Lodging from August 1, 2016 through September 29, 2017. (current ordinance)
The maximum fine for this Class A Violation is \$1000.00 per day, per violation.**IMPORTANT NOTICE****This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date**
and time specified will result in a default judgment being entered against you in favor of the City of
Manzanita for the maximum fine amount shown.I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed,
or permitted to be committed, the violation(s) shown.Date issued 12-4-2017By: Judy C Wilson
Manzanita Ordinance Enforcement Officer 612**Your Court Appearance Date, Time and Locations**You must appear in Manzanita Municipal Court on Friday, October 13, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: A. August 1, 2016 - September 29, 2017 / B. January 1, 2017 - September 29, 2017

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Peterson
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 16-03 Section 6(E)

hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to include a Manzanita Certificate of Authority (MCA) number in an advertisement soliciting business for 181 Edmund Lane as Transient Lodging from August 1, 2016 through September 29, 2017. (current ordinance)

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

B. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2(b)

hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to include a license number issued by the City of Manzanita in an advertisement soliciting business for 181 Edmund Lane as a short term rental from January 1, 2017 through September 29, 2017. (current ordinance)

The maximum fine for this Class C Violation is \$500.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date and time specified will result in a default judgment being entered against you in favor of the City of Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed, or permitted to be committed, the violation(s) shown.

Date issued 10-4-2017

By: Judy C. Wilson
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, October 13, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITY OF MANZANITA

CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: September 30, 2017 - November 13, 2017

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Peterson
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2
hereby; Failed Refused Neglected Rendered Rented X Made Available
by committing or permitting, a violation a dwelling unit on a short term rental basis without first obtaining
the required City license.

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date
and time specified will result in a default judgment being entered against you in favor of the City of
Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed,
or permitted to be committed, the violation(s) shown.

Date issued November 13, 2017

By: Judy C. Carlson
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, December 15, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITY OF MANZANITA

CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: September 30, 2017 - November 13, 2017

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Peterson
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 16-03 Section 6(A)

hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to register with the City Tax Administrator prior to commencing
business as Transient Lodging.

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date
and time specified will result in a default judgment being entered against you in favor of the City of
Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed,
or permitted to be committed, the violation(s) shown.

Date issued November 13, 2017

By: 
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, December 15, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITY OF MANZANITA
CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
 County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: September 30, 2017 - November 13, 2017

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
 (address of property)

Violator: Name: Sandra J Peterson
 Physical Address: _____
 Mailing Address: PO Box 792
 City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 16-03 Section 6(E)

hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
 by committing or permitting, a violation to include a Manzanita Certificate of Authority (MCA) number in
an advertisement soliciting business for 181 Edmund Lane as Transient Lodging.

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

B. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2(b)

hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
 by committing or permitting, a violation to include a license number issued by the City of Manzanita in an
advertisement soliciting business for 181 Edmund Lane as a short term rental.

The maximum fine for this Class C Violation is \$500.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date and time specified will result in a default judgment being entered against you in favor of the City of Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed, or permitted to be committed, the violation(s) shown.

Date issued November 13, 2017

By: Judy C. Wilson
 Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, December 15, 2017 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITY OF MANZANITA

CITATION AND COMPLAINT

In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: three nights including April 5, 2018

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Petersen
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 10-03 Section 2 hereby; Failed Refused Neglected Rendered Rented X Made Available by committing or permitting, a violation a dwelling unit on a short term rental basis without first obtaining the required City license.

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date and time specified will result in a default judgment being entered against you in favor of the City of Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed, or permitted to be committed, the violation(s) shown.

Date issued April 6, 2018

By: 
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, April 20, 2018 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

CITATION AND COMPLAINT

**In the Municipal Court of the City of Manzanita
County of Tillamook, State of Oregon**

Citation No. _____

The undersigned City of Manzanita officer/clerk certifies and states:

Date(s) of Violation: three nights including April 5, 2018

The violation occurred in the City of Manzanita, as it relates to: 181 Edmund Lane
(address of property)

Violator: Name: Sandra J Petersen
Physical Address: _____
Mailing Address: PO Box 792
City/State/Zip: Greenacres, WA 99016

A. Did unlawfully and in violation of Manzanita City Ordinance 16-03 Section 6(A)
hereby; ☒ Failed ☐ Refused ☐ Neglected ☐ Rendered ☐ Rented ☐ Made Available
by committing or permitting, a violation to register with the City Tax Administrator prior to commencing
business as Transient Lodging.

The maximum fine for this Class A Violation is \$1000.00 per day, per violation.

IMPORTANT NOTICE

This Citation and Complaint will be filed in the Manzanita Municipal Court. Failure to appear at date and time specified will result in a default judgment being entered against you in favor of the City of Manzanita for the maximum fine amount shown.

I hereby certify under penalties by ordinance that I have reasonable grounds and do believe that the person named above committed, or permitted to be committed, the violation(s) shown.

Date issued April 6, 2018

By: Judy C. Wilcox
Manzanita Ordinance Enforcement Officer 612

Your Court Appearance Date, Time and Locations

You must appear in Manzanita Municipal Court on Friday, April 20, 2018 at
2:00 P.M. at Manzanita City Hall, 543 Laneda Avenue, PO Box 247,
Manzanita, Oregon 97130, to answer to this complaint.

FOR THE CITY OF MANZANITA
COUNTY OF TILLAMOOK, STATE OF OREGON

VOLUNTARY COMPLIANCE AGREEMENT

NAME: Sandra Petersen

MANZANITA PROPERTY ADDRESS: 181 Edmund, Manzanita, Oregon 97131

MAILING ADDRESS: PO Box 792, Greenacres, Washington 99016

Sandra Petersen is the owner of the address listed above which is located in the City of Manzanita, County of Tillamook, State of Oregon.

Sandra Petersen enters pleas of guilty to the charges listed on Citation Nos:
17-V-000524 A/B, 17-V-000525 A/B, 17-V-000526 A/B, 17-V-000580, 17-V-000581,
17-V-000582 A/B and agrees as follows:

1. The City agrees to hold this citation in exchange for the execution of this agreement.
2. The homeowner(s) agree to follow and abide by all terms of the short term rental/transient lodging tax ordinances of the City of Manzanita, specifically those portions of the ordinance that may be attached hereto and made a material part hereby reference.
3. I/We will keep the Court advised of any change of home ownership and/or change of mailing address.
4. Failure to comply with this Voluntary Compliance Agreement may result in execution of a Money Judgment in the amount of \$1,875,500.00, for the ordinance violations that are the subject of this agreement. I also agree that as part of this agreement, I will pay a fine in the amount of \$7,500.00 which includes reimbursing the City of Manzanita for the fees of the City Prosecutor.
5. This Voluntary Compliance Agreement will terminate two years from the date of execution of this agreement, at which time the City will dismiss the citation.

I hereby understand the terms, conditions and subsequent consequences and enter into the voluntary compliance agreement.

Homeowner Signature/ Printed Name
Sandra Petersen

Date

Agreement to terms/signature
City Prosecutor

Date

Agreement to terms/signature
Defendant Attorney

Date



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6 **IN THE MUNICIPAL COURT OF THE STATE OF OREGON**
7 **TILLAMOOK COUNTY, CITY OF MANZANITA**

8 City of Manzanita,
9 Plaintiff,
10

11 vs.

12 Sandra J. Petersen, an individual,
13 Defendant.
14

Case Nos.: 17-V-524A/B
17-V-525A/B
17-V-526A/B

**DEFENDANT'S OBJECTION TO CITY'S
MOTION FOR ORDER TO SHOW CAUSE
RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT**

**ORAL ARGUMENT AND EXPEDITED
HEARING REQUESTED**

(Estimated Time: 30 minutes)

15
16 **INTRODUCTION**

17 On April 25, 2018, The City of Manzanita submitted its Motion for Order to Show Cause
18 Re: Violation of Voluntary Compliance Agreement ("City's Motion"). Defendant Sandra J.
19 Petersen hereby objects to the City's Motion. Although the Agreement was effective as of
20 February 28, 2018, the time for performance under such agreement had not become due until
21 April 20, 2018.

22 In support of this motion, Defendant relies on the following Memorandum of Points and
23 Authorities and the papers and pleadings on file herein.

24 ///

25 ///

26 **DEFENDANT'S OBJECTION TO CITY'S MOTION FOR ORDER
TO SHOW CAUSE RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT**

Zuplaw Law Firm LLC
615 Broadway St., Suite 216
Seaside, OR 97138
Tel: (503) 747-9836 / Fax: (503) 902-7900

REQUEST FOR EXPEDITED HEARING

The City has requested a hearing for its proposed show cause order on August 10, 2018, the same day that Defendant Ms. Petersen is scheduled for trial on new alleged violations. For the sake of judicial efficiency, Ms. Petersen respectfully requests a hearing on the City's Motion (and on this objection) at a time prior to this date. Doing so will allow both parties (as well as this Court) to better prepare for and to anticipate the substance of the August 10, 2018 appearance.

MEMORANDUM OF POINTS AND AUTHORITIES

A. Brief Factual Background

On February 28, 2018, Plaintiff City of Manzanita and Defendant Sandra Petersen entered into a settlement agreement regarding the above-captioned case (the "Agreement"). *See* Declaration of Christian Zupancic in Support of Defendant's Motion to Enforce Agreement ("Zupancic Decl."), Exhibit C (on file herein). The City conditioned the Agreement upon this Court's final approval and the parties' mutual execution of a Voluntary Compliance Agreement ("VCA"). *See* Zupancic Decl., Ex. A at pg.1.

However, prior to the time period allowed for this condition to occur, the City repudiated the Agreement on March 19, 2018. Approximately two weeks later, on April 6, 2018, the City issued Ms. Petersen new citations for alleged violations of the City's short-term rental ordinances. *Id.* Ex. B at pg. 5.

Due to Plaintiff's repudiation of the Agreement on March 19, 2018, Defendant Ms. Petersen filed a motion to enforce the Agreement as originally formed. On April 20, 2018, this Court held a hearing on Defendant's motion. *See* Sworn Declaration of Counsel [Stacy Rodriguez] in support of Motion for Order to Show Cause ("Rodriguez Decl."), ¶ 2. At this hearing, the Court ordered that the Agreement be enforced and to be effective as of February 28,

**DEFENDANT'S OBJECTION TO CITY'S MOTION FOR ORDER
TO SHOW CAUSE RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT**

Zuplaw Law Firm LLC
615 Broadway St., Suite 216
Seaside, OR 97138
Tel: (503) 747-9836 / Fax: (503) 902-7900

2018.¹ *Id.* The Court further ordered Ms. Petersen to pay \$7,500 to the City within 60 days of April 20, 2018.

After the hearing, (on April 25, 2018), the City moved this Court for an Order to Show Cause Re: Violation of Voluntary Compliance Agreement, citing Ms. Petersen's alleged violation of short-term rental ordinances as described above.

Defendant now submits this objection to the City's Motion.

A. Contract Formation vs. Time of Performance

As detailed above, the City conditioned the Agreement upon this Court's approval and upon the parties' execution of a final VCA. In other words, while the agreement itself had been formed via email exchange on February 28, 2018, the time for performance would not be due until this Court had approved it and until both parties had signed the VCA.

As Defendant had outlined in its previous Motion to Enforce Settlement Agreement (on file herein), there is an explicit distinction between the time a contract is formed and the time that a contract must be performed. *See, e.g., Bridge City Family Med. Clinic, P.C. v. Kent & Johnson, LLP*, 270 Or App 115, 124, 346 P3d 658, 664 (2015) ("a condition precedent... is a condition on which *performance* is contingent.") (quoting *D'Angelo v. Schultz*, 110 Or.App. 445, 450, 823 P.2d 997 (1992), *rev. den.*, 313 Or. 209, 830 P.2d 595) (emphasis in original.) Essentially, a contract may be formed at one date but not require the parties' respective performance until some later date. *Id.*² In this case, the contract between Plaintiff Ms. Petersen and Defendant had

¹ In her declaration, Ms. Rodriguez states that the Voluntary Compliance Agreement ("VCA") had been approved by the Court on April 20, 2018, but "signed nunc pro tunc to February 28, 2018." Rodriguez Decl. ¶ 2. This may be an overstatement of the court's ruling: this Court ordered that the settlement agreement would be effective as of February 28, 2018, but did not specifically address the parties' execution of the VCA.

² *Bridge City* is instructive here. In that case, the two parties exchanged emails indicating that they had reached an agreement based on a certain dollar amount. The parties further agreed that the release was not to become effective until signed. The Court in that case explained that "the *contract* between the parties was achieved when they reached an accord on the dollar amount," while "the signing of the release was a condition precedent to the *performance* of the contract." *Id.* (Emphasis added and in original).

1 been formed upon acceptance (via email) between the two parties: in turn, it was to be ultimately
 2 enforceable upon assent from this Court. *Id.* Prior to that time, neither party could have
 3 performed— nor could they have been expected to perform— their respective obligations
 4 thereunder.

5 To further illustrate, at the hearing on April 20, 2018 this Court ordered Ms. Petersen to
 6 pay \$7,500 within 60 days of such date: Ms. Petersen could not have been expected to pay this
 7 amount until the Court had so approved the Agreement and given her a timeline for payment.
 8 Nor could the City have reasonably moved for a “show-cause” order for Ms. Petersen’s “failure”
 9 to pay this \$7,500 amount. This is because neither party had understood the VCA to have yet
 10 taken effect.³

11 The particular timeline for performance in this case is also apparent by the reasonable
 12 expectations of the parties and the language of the VCA itself. For example, in the VCA, it states
 13 that “[the VCA] will terminate two years from the date of execution of this agreement, at which
 14 time the City will dismiss the citation.” Zupancic Decl., Ex. C, ¶ 5. There is no practical way to
 15 determine when “two years from the date of execution” of a particular agreement would be until
 16 that agreement is, in fact, executed. Additionally, the VCA at issue here states that “[t]he City
 17 agrees to hold this citation in exchange for the execution of this agreement...” *Id.* ¶ 1. As this
 18 Court is aware, the City did not in fact “hold” or otherwise suspend its prosecution of Ms.
 19 Petersen’s citations after February 28, 2018, but instead appeared at the April 20, 2018 hearing in
 20 order to continue that prosecution. The City’s actions did not, of course, violate the VCA

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 22 ³ Furthermore, it would be disingenuous for the City to have declared that the agreement was void, yet still insist
 23 that it expected Ms. Petersen to perform after such declaration. *See* Zupancic Decl., Ex. B at pg.5. Assuming
 24 arguendo that performance was due under the Agreement during the stated period, the City’s actions alone likely
 25 excuse Ms. Petersen from such performance. The relevant rule in Oregon is that one party’s repudiation of a
 26 contract will excuse the other party from performing, so long as the injured party was “able” to perform but for the
 repudiation. *Aurora Aviation, Inc. v. AAR W. Skyways, Inc.*, 75 Or App 598, 603-604, 707 P2d 631, 634 (1985). In
 this case, the City had repudiated the contract during the relevant time period; Ms. Petersen, on the other hand, was
 ready and able to perform at the time of the City’s repudiation. Thus, owing to the City’s repudiation, Ms. Petersen
 was excused from performing even if performance would otherwise be due. *Id.*

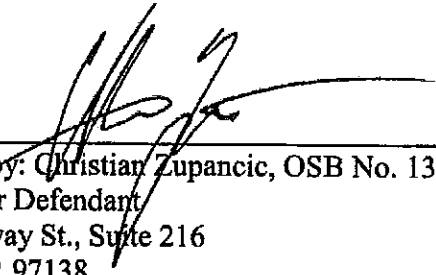
1 because Ms. Petersen did not expect the City to “hold” the citations until the VCA had been
 2 executed (with this Court’s approval); neither could the City have reasonably expected Ms.
 3 Petersen to have performed her duties under the VCA until this same designated time.

4 In sum, Ms. Petersen did not violate the VCA or the Agreement because—at the time of
 5 the alleged violation—the time for the parties to perform had not yet come due.⁴ The City’s
 6 Motion must therefore be denied as a matter of law.

7 CONCLUSION

8 For the reasons discussed above, Defendant respectfully requests that this Court deny
 9 Plaintiff’s Motion for Order to Show Cause Re: Violation of Voluntary Compliance Agreement.

10
 11 Respectfully submitted this 5.2.18

12
 13
 14 Submitted by: 
 15 Attorney for Defendant
 16 615 Broadway St., Suite 216
 17 Seaside, OR 97138
 18 christian@zuplaw.com
 19 Phone: (503) 747-9836 / Fax: (503) 902-7900
 20 Trial Attorney: Christian Zupancic

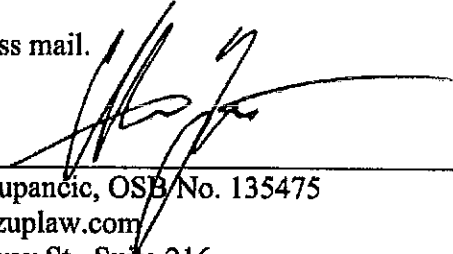
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 25 ⁴ Ostensibly, the time for the parties’ performance is still not due, as neither party has signed the VCA (excepting
 26 for this Court’s order that Ms. Petersen pay \$7,500 within the stated timeline).

1 **ATTORNEY CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing, certified by me as such,
3 on the parties below on the date and in the manner indicated:

4 Stacy C. Rodriguez
5 217 N Hemlock
6 PO Box 952
7 Cannon Beach OR 97110
8 scrlaw00@gmail.com

9 On May 2, 2018 by email and first class mail.

10 
11 _____
12 Christian Zupancic, OSB No. 135475
13 christian@zuplaw.com
14 615 Broadway St., Suite 216
15 Seaside, OR 97138
16 Tel: (503) 747-9836 / Fax: (503) 902-7900
17 Trial Attorney: Christian Zupancic, OSB No. 135475

18 Attorney for Defendant, Sandra J. Petersen
19
20
21
22
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26

ATTORNEY'S CERTIFICATE OF SERVICE

Page 6 of 6

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6 **IN THE MUNICIPAL COURT OF THE STATE OF OREGON**
7 **TILLAMOOK COUNTY, CITY OF MANZANITA**

8
9 City of Manzanita,
10 Plaintiff,

11 vs.

12 Sandra J. Petersen, an individual,
13 Defendant.
14

Case Nos.: **17-V-524A/B**
17-V-525A/B
17-V-526A/B

DEFENDANT'S OBJECTION TO CITY'S
MOTION FOR ORDER TO SHOW CAUSE
RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT

ORAL ARGUMENT AND EXPEDITED
HEARING REQUESTED

(Estimated Time: 30 minutes)

15
16 **INTRODUCTION**

17 On April 25, 2018, The City of Manzanita submitted its Motion for Order to Show Cause
18 Re: Violation of Voluntary Compliance Agreement ("City's Motion"). Defendant Sandra J.
19 Petersen hereby objects to the City's Motion. Although the Agreement was effective as of
20 February 28, 2018, the time for performance under such agreement had not become due until
21 April 20, 2018.

22 In support of this motion, Defendant relies on the following Memorandum of Points and
23 Authorities and the papers and pleadings on file herein.

24 ///

25 ///

26 **DEFENDANT'S OBJECTION TO CITY'S MOTION FOR ORDER**
TO SHOW CAUSE RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT

Zuplaw Law Firm LLC
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REQUEST FOR EXPEDITED HEARING

The City has requested a hearing for its proposed show cause order on August 10, 2018, the same day that Defendant Ms. Petersen is scheduled for trial on new alleged violations. For the sake of judicial efficiency, Ms. Petersen respectfully requests a hearing on the City's Motion (and on this objection) at a time prior to this date. Doing so will allow both parties (as well as this Court) to better prepare for and to anticipate the substance of the August 10, 2018 appearance.

MEMORANDUM OF POINTS AND AUTHORITIES

A. Brief Factual Background

On February 28, 2018, Plaintiff City of Manzanita and Defendant Sandra Petersen entered into a settlement agreement regarding the above-captioned case (the "Agreement"). *See* Declaration of Christian Zupancic in Support of Defendant's Motion to Enforce Agreement ("Zupancic Decl."), Exhibit C (on file herein). The City conditioned the Agreement upon this Court's final approval and the parties' mutual execution of a Voluntary Compliance Agreement ("VCA"). *See* Zupancic Decl., Ex. A at pg.1.

However, prior to the time period allowed for this condition to occur, the City repudiated the Agreement on March 19, 2018. Approximately two weeks later, on April 6, 2018, the City issued Ms. Petersen new citations for alleged violations of the City's short-term rental ordinances. *Id.* Ex. B at pg. 5.

Due to Plaintiff's repudiation of the Agreement on March 19, 2018, Defendant Ms. Petersen filed a motion to enforce the Agreement as originally formed. On April 20, 2018, this Court held a hearing on Defendant's motion. *See* Sworn Declaration of Counsel [Stacy Rodriguez] in support of Motion for Order to Show Cause ("Rodriguez Decl."), ¶ 2. At this hearing, the Court ordered that the Agreement be enforced and to be effective as of February 28,

**DEFENDANT'S OBJECTION TO CITY'S MOTION FOR ORDER
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2018.¹ *Id.* The Court further ordered Ms. Petersen to pay \$7,500 to the City within 60 days of April 20, 2018.

After the hearing, (on April 25, 2018), the City moved this Court for an Order to Show Cause Re: Violation of Voluntary Compliance Agreement, citing Ms. Petersen's alleged violation of short-term rental ordinances as described above.

Defendant now submits this objection to the City's Motion.

A. Contract Formation vs. Time of Performance

As detailed above, the City conditioned the Agreement upon this Court's approval and upon the parties' execution of a final VCA. In other words, while the agreement itself had been formed via email exchange on February 28, 2018, the time for performance would not be due until this Court had approved it and until both parties had signed the VCA.

As Defendant had outlined in its previous Motion to Enforce Settlement Agreement (on file herein), there is an explicit distinction between the time a contract is formed and the time that a contract must be performed. *See, e.g., Bridge City Family Med. Clinic, P.C. v. Kent & Johnson, LLP*, 270 Or App 115, 124, 346 P3d 658, 664 (2015) ("a condition precedent... is a condition on which *performance* is contingent.") (quoting *D'Angelo v. Schultz*, 110 Or.App. 445, 450, 823 P.2d 997 (1992), *rev. den.*, 313 Or. 209, 830 P.2d 595) (emphasis in original.) Essentially, a contract may be formed at one date but not require the parties' respective performance until some later date. *Id.*² In this case, the contract between Plaintiff Ms. Petersen and Defendant had

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 18 Court is aware, the City did not in fact “hold” or otherwise suspend its prosecution of Ms.
 19 Petersen’s citations after February 28, 2018, but instead appeared at the April 20, 2018 hearing in
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 was excused from performing even if performance would otherwise be due. *Id.*

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 3 Petersen to have performed her duties under the VCA until this same designated time.

4 In sum, Ms. Petersen did not violate the VCA or the Agreement because—at the time of
 5 the alleged violation—the time for the parties to perform had not yet come due.⁴ The City’s
 6 Motion must therefore be denied as a matter of law.

7 CONCLUSION

8 For the reasons discussed above, Defendant respectfully requests that this Court deny
 9 Plaintiff’s Motion for Order to Show Cause Re: Violation of Voluntary Compliance Agreement.

10
 11 Respectfully submitted this _____.

12
 13
 14 Submitted by: Christian Zupancic, OSB No. 135475
 15 Attorney for Defendant
 16 615 Broadway St., Suite 216
 17 Seaside, OR 97138
 18 christian@zuplaw.com
 19 Phone: (503) 747-9836 / Fax: (503) 902-7900
 20 Trial Attorney: Christian Zupancic

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 25 ⁴ Ostensibly, the time for the parties’ performance is still not due, as neither party has signed the VCA (excepting
 for this Court’s order that Ms. Petersen pay \$7,500 within the stated timeline).

ATTORNEY CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing, certified by me as such, on the parties below on the date and in the manner indicated:

Stacy C. Rodriguez
217 N Hemlock
PO Box 952
Cannon Beach OR 97110
scr1aw00@gmail.com

On May____, 2018 by email and first class mail.

Christian Zupancic, OSB No. 135475
christian@zuplaw.com
615 Broadway St., Suite 216
Seaside, OR 97138
Tel: (503) 747-9836 / Fax: (503) 902-7900
Trial Attorney: Christian Zupancic, OSB No. 135475

Attorney for Defendant, Sandra J. Petersen

ATTORNEY CERTIFICATE OF SERVICE

Page 6 of 6

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6 **IN THE MUNICIPAL COURT OF THE STATE OF OREGON**
7 **TILLAMOOK COUNTY, CITY OF MANZANITA**
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9 City of Manzanita,
10 Plaintiff,

11 vs.

12 Sandra J. Petersen, an individual,
13 Defendant.
14

Case Nos.: 17-V-524A/B
17-V-525A/B
17-V-526A/B

**DEFENDANT'S MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

**ORAL ARGUMENT REQUESTED
(Estimated Time: 30 minutes)**

15 **MOTION**

16 Defendant Sandra Petersen respectfully moves the Court for an order (1) declaring the
17 settlement agreement between Defendant and Plaintiff City of Manzanita to be a validly formed
18 contract and (2) an order compelling specific performance of such agreement.

19 In support of this motion, Defendant relies on the following Memorandum of Points and
20 Authorities, the attached Declaration of Christian Zupancic ("Zupancic Decl."), and the papers
21 and pleadings on file herein.

22 **UTCR 5.010 STATEMENT**

23 Defendant's counsel made a good-faith effort to confer with attorney Stacy Rodriguez,
24 counsel for Plaintiff, by email correspondence from March 20, 2018 to March 28, 2018
25 concerning the issues set forth in this Motion. Counsel were unable to resolve such issues
26 without the assistance of this Court.

**DEFENDANT'S MOTION TO TREAT VIOLATION AS
CRIMINAL PROSECUTION**

MEMORANDUM OF POINTS AND AUTHORITIES

On February 28, 2018, Plaintiff City of Manzanita and Defendant Sandra Petersen entered into a settlement agreement regarding the above-captioned case. *See* Zupancic Decl., Ex. A at pg. 1-2. The agreement stated that Ms. Petersen would pay \$7,500, inclusive of all costs, as well as register her property as a short-term rental for 2 years; in exchange, the City would hold the charges in abeyance until Ms. Petersen fulfilled her obligations, after which the City would dismiss the charges. *Id.*

The above settlement agreement between the two parties constituted a valid contract. In general, Oregon follows the “objective” theory of contract formation. *Real Estate Loan Fund v. Oreg. Ltd. v. Hevner*, 76 Or App 349, 354, 709 P2d 727, 730 (1985) (“In determining whether a contract exists and what its terms are, we examine the objective manifestations of intent, as evidenced by the parties’ communications and acts.”). In this case, Defendant’s attorney Christian Zupancic proposed a settlement offer—via email—that was consistent with the parties’ discussions in a previous settlement conference. Zupancic Decl. at pg. 1. Plaintiff’s Attorney Stacy Rodriguez accepted those terms in a subsequent email. *Id.* Ms. Rodriguez further affirmed the settlement agreement by delivering to Mr. Zupancic a “voluntary compliance agreement” (“VCA”) that embodied the agreed-upon terms.¹ The parties thereby formed a valid contract. *Real Estate Loan Fund*, 76 Or App at 354 (1985).

Plaintiff may claim, on the other hand, that an agreement had not been formed because the agreement was conditioned upon the judge’s approval. *See* Zupancic Decl., Ex. A at pg. 1. However, the fact that Ms. Rodriguez may have conditioned her acceptance does not change the

¹ On March 8, 2018, Ms. Rodriguez emailed the VCA to this Court for the purposes of finalizing the settlement agreement with the judge’s approval. *See* Zupancic Decl., Ex. B at pg. 6-7; Ex. C (final draft of VCA). In Ms. Rodriguez’s email, she states, “Please advise so that we may formalize *this agreement*...” Zupancic Decl., Ex. B at pg. 7 (emphasis added).

fact that the contract had, in fact, been formed. Generally, Oregon courts have explained that there is an explicit distinction between contract formation and contract enforcement. *See, e.g., Bridge City Family Med. Clinic, P.C. v. Kent & Johnson, LLP*, 270 Or App 115, 124, 346 P3d 658, 664 (2015) (settlement agreement was enforceable between two parties who had agreed to basic terms in email exchange, despite condition that the agreement later be reduced to a writing, because “condition precedent [was] not a condition on which the validity of an *acceptance* is contingent; it is a condition on which *performance* is contingent.”) (quoting *D'Angelo v. Schultz*, 110 Or.App. 445, 450, 823 P.2d 997 (1992), *rev. den.*, 313 Or. 209, 830 P.2d 595) (emphasis in original.)

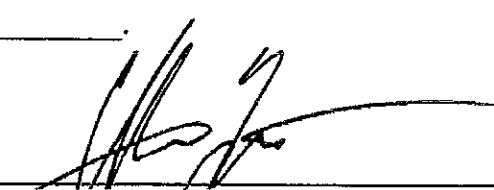
In this case, the contract between Plaintiff Ms. Petersen and Defendant had been formed upon acceptance (via email) between the two parties: in turn, it was to be ultimately enforceable upon assent from this Court. *Id.* Ms. Rodriguez’s later communications regarding the settlement terms do nothing to change this result. For example, some weeks after Ms. Rodriguez’s tender of the VCA to this Court, Ms. Rodriguez emailed Defense counsel Christian Zupancic in an effort to impose entirely different terms. *See* Zupancic Decl, Ex. B at pg. 5. When pressed on the matter, Ms. Rodriguez did not refute that a valid settlement agreement existed: instead, she stated that her newly imposed terms were “what the judge [was] willing to accept.” *Id.*, Ex. B at pg. 4.² Ms. Rodriguez had earlier emailed the VCA to this Court as a representation of the parties’ mutual understanding of an earlier settlement discussion with the judge. *Id.*, Ex. B at pg. 6. Thus, despite Ms. Rodriguez’s subsequent communications regarding the agreed-upon terms, a valid contract had already been formed. That contract was to be ultimately enforceable upon this Court’s (pending) approval. *Bridge City Family Med. Clinic*, 270 Or App at 124 (2015).

² In this and other communications, Rodriguez apparently did not mean to imply that she had had ex parte communications with the court. For the purposes of this motion, it is assumed that these communications did not occur. *See, e.g.* Zupancic Decl., Ex. B at pp. 2-3.

CONCLUSION

For the reasons discussed above, Defendant respectfully requests that this Court (1) issue an order and declaratory judgment declaring the parties' settlement agreement to be valid, as well (2) as an order compelling specific performance thereof.

Respectfully submitted this April 9, 2018.



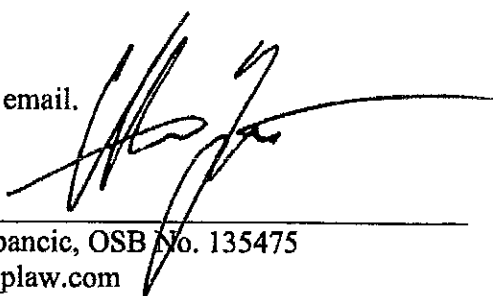
Submitted by: Christian Zupancic, OSB No. 135475
Attorney for Defendant
615 Broadway St., Suite 216
Seaside, OR 97138
christian@zuplaw.com
Phone: (503) 747-9836 / Fax: (503) 902-7900
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1 **ATTORNEY CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing, certified by me as such,
3 on the parties below on the date and in the manner indicated:

4 Stacy C. Rodriguez
5 217 N Hemlock
6 PO Box 952
7 Cannon Beach OR 97110
8 scrlaw00@gmail.com

9 On April 9, 2018 by first class mail and email.

10 
11 _____
12 Christian Zupancic, OSB No. 135475
13 christian@zuplaw.com
14 615 Broadway St., Suite 216
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16 Tel: (503) 747-9836 / Fax: (503) 902-7900
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6 **IN THE MUNICIPAL COURT OF THE STATE OF OREGON**
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14

Case Nos.: **17-V-524A/B**
17-V-525A/B
17-V-526A/B

**DECLARATION OF CHRISTIAN
ZUPANCIC IN SUPPORT OF
DEFENDANT'S MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

15 I, Christian Zupancic, hereby declare:

16 1.

I am counsel for Defendant Sandra Petersen.

17 2.

18 Exhibit A reflects a true and accurate copy of my email correspondence with Attorney
19 Stacy Rodriguez, which exhibit is attached to this Declaration and made a part hereof.
20

21 3.

22 Exhibit B reflects a true and accurate copy of my email correspondence with Attorney
23 Stacy Rodriguez, which exhibit is attached to this Declaration and made a part hereof.
24

25 4.

26 Exhibit C reflects a true and accurate copy of the voluntary compliance agreement
("VCA") that Attorney Stacy Rodriguez and I had negotiated and agreed upon in relation to this

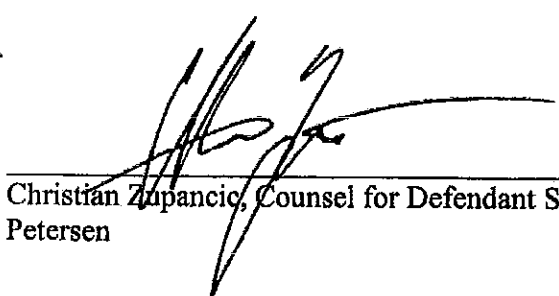
**DECLARATION OF CHRISTIAN ZUPANCIC IN SUPPORT OF
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AGREEMENT**

Zuplaw Law Firm LLC
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Seaside, OR 97138
Tel: (503) 747-9836 / Fax: (503) 902-7900

1 case, which exhibit is attached to this Declaration and made a part hereof.

2
3 **I hereby declare that the above statement is true to the best of my knowledge and**
4 **belief, and that I understand it is made for use as evidence in court and is subject to penalty**
5 **for perjury.**

6
7 DATED this 9 day of April, 2018.

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9 
10 Christian Zupancic, Counsel for Defendant Sandra
11 Petersen
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26 **DECLARATION OF CHRISTIAN ZUPANCIC IN SUPPORT OF**
DEFENDANT'S MOTION TO ENFORCE SETTLEMENT
AGREEMENT

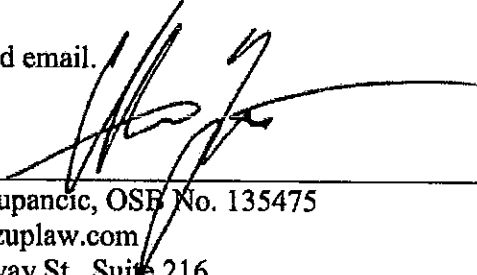
Zuplaw Law Firm LLC
615 Broadway St., Suite 216
Seaside, OR 97138
Tel: (503) 747-9836 / Fax: (503) 902-7900

1 **ATTORNEY CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing, certified by me as such,
3 on the parties below on the date and in the manner indicated:

4 Stacy C. Rodriguez
5 217 N Hemlock
6 PO Box 952
7 Cannon Beach OR 97110
8 scr1aw00@gmail.com

9 On April 9, 2018 by first class mail and email.

10 
11 _____
12 Christian Zupancic, OSB No. 135475
13 christian@zuplaw.com
14 615 Broadway St., Suite 216
15 Seaside, OR 97138
16 Tel: (503) 747-9836 / Fax: (503) 902-7900
17 Trial Attorney: Christian Zupancic, OSB No. 135475

18 Attorney for Defendant, Sandra J. Petersen
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20
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ATTORNEY'S CERTIFICATE OF SERVICE

Page 3 of 3

Zuplaw Law Firm LLC
615 Broadway St., Suite 216
Seaside, OR 97138
Phone: (503) 747-9836 / Fax: (503) 902-7900

From: Stacy Rodriguez
To: [Christian Zupancic](#)
Subject: Re: Settlement discussions Part 2
Date: Wednesday, February 28, 2018 8:25:12 AM
Attachments: [image001.png](#)
[image002.jpg](#)

If the judge will accept that, I will. He did just have another case with liability at 3.4 million (geesh) and they ultimately are paying +/- \$50,000.

On Tue, Feb 27, 2018 at 11:02 AM, Christian Zupancic <christian@zuplaw.com> wrote:

Hi Stacy,

Owing to our last meeting with the judge, it seems that the right amount to settle for would be \$7,500. If you can do this amount (all inclusive), my clients can make it work.

I also understand that they would need to register as a short term rental for two years, which they would be fine with as well.

Thanks,

Christian Zupancic



Zuplaw Law Firm, LLC

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www.zuplaw.com

christian@zuplaw.com

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--

Sincerely,

Stacy C. Rodriguez
Attorney at Law
PO Box 952
Cannon Beach, Oregon 97110
503-436-1960

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From: Stacy Rodriguez
To: Christian Zupancic
Subject: Re: FW: Petersen VCA- OEC 408 discussions
Date: Wednesday, March 28, 2018 12:12:33 PM
Attachments: [image001.png](#)
[image002.jpg](#)

Hi Christian,

I am currently on vacation so my response will be brief. I feel that the disposition in this case is really up to the judge at this point. As you know judges maintain ultimate discretion.

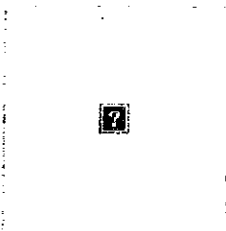
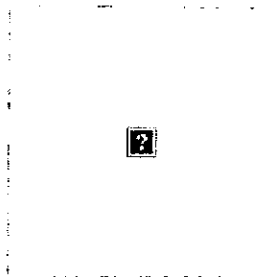
On Wed, Mar 28, 2018 at 6:36 AM Christian Zupancic <christian@zuplaw.com> wrote:

Stacy,

I wanted to make sure you received the below email. As of yet, I haven't received any response regarding the issues I've raised.

Please respond by Friday, if possible. If I don't hear anything by that time, I will assume that the City does not intend to abide by our agreement, and I will proceed to file a motion to enforce the settlement agreement with the court.

Christian Zupancic



Zuplaw Law Firm, LLC

615 Broadway St., Suite 216

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www.zuplaw.com

christian@zuplaw.com

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From: Christian Zupancic
Sent: Tuesday, March 20, 2018 10:06 AM
To: 'Stacy Rodriguez'
Subject: RE: Petersen VCA- OEC 408 discussions

Stacy,

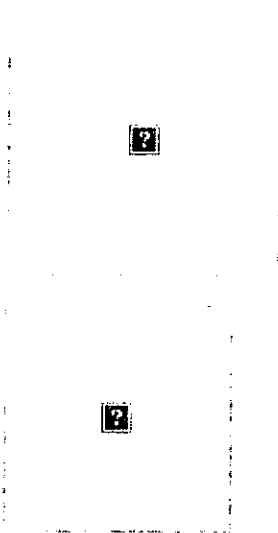
I just spoke with Maggie, and she informed me that—as would be expected—the judge did not have any input whatsoever into the terms of settlement. Maggie and I both agreed that it would be odd for a judge to try and alter the terms of a settlement that the parties had already reached. This is especially true given the previous settlement conference between you, me, and the judge. In that conference, I discussed the possibility of a \$7,500 settlement, inclusive of all attorney fees and any other costs or expenses. We discussed how the \$7,500 could fairly account for the lost fees and taxes incurred by the city, your fees, and an appropriate penalty for my client. The judge encouraged a settlement of this nature.

Later, my client agreed to accept the \$7,500 amount as indicated. I emailed you this offer, which you then accepted by email. You subsequently sent me the VCA detailing the terms to which we had agreed. After a few edits, you created a final draft of our agreement and submitted it to the court for approval.

Some days later, you emailed me in order to offer what appeared to be new terms for settlement. You noted that “the City” requested these terms: understandably, I was confused, as you represent the City and had already accepted a settlement on its behalf. You then informed me that these new terms were what “the judge was willing to accept”: this also seemed odd, and furthermore turned out to be untrue.

You can likely understand why I am having some difficulty processing all of this. I am hoping that there is some explanation. But in any event, my client and I are expecting that the City will abide by the terms to which it has agreed.

Christian Zupancic



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Seaside, OR 97138

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www.zuplaw.com

christian@zuplaw.com

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From: Stacy Rodriguez [mailto:scr1aw00@gmail.com]
Sent: Monday, March 19, 2018 1:00 PM
To: Christian Zupancic
Subject: Re: Petersen VCA

My understanding is that this is what the judge is willing to accept. I can confirm this if needed.

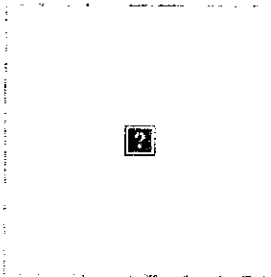
On Mon, Mar 19, 2018 at 12:57 PM Christian Zupancic <christian@zuplaw.com> wrote:

Stacy,

Please explain what this means. We had an agreement with certain terms, and this appears to be in contravention of that agreement. I understand that all parties did not sign the VCA yet, but we had agreed (in writing via emails) to essential terms that appear to have been altered here.

Has the judge made some request that I am unaware of? You mention that "The City is willing to accept a fine of \$7500 plus attorney fees and the estimated delinquent transient lodging taxes of \$1,856.25..." The \$7,500 was to be inclusive of your fees and all estimated taxes, as outlined in the terms of the VCA.

Christian Zupancic



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www.zuplaw.com

christian@zuplaw.com

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From: Stacy Rodriguez [<mailto:scrlaw00@gmail.com>]
Sent: Monday, March 19, 2018 12:40 PM
To: Christian Zupancic
Cc: Maggie Hogland
Subject: Re: Petersen VCA

The City is willing to accept a fine of \$7500 plus attorney fees and the estimated delinquent transient lodging taxes of \$1,856.25. The City also wants Ms. Peterson placed on probation for 60 months to assure that she will not continue to rent her house. The City would be willing to accept a 36 month probation term if Ms. Peterson agrees to go through the process to obtain a short term rental license.

On Fri, Mar 16, 2018 at 11:55 AM Christian Zupancic <christian@zuplaw.com> wrote:

Hi Stacy and Maggie,

Just checking in—any word as to whether Judge Blake is ok with the terms of the VCA?

Thanks-

Christian Zupancic

?

?

Zuplaw Law Firm, LLC

615 Broadway St., Suite 216

Seaside, OR - 97138

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christian@zuplaw.com

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From: Stacy Rodriguez [mailto:scrlaw00@gmail.com]

Sent: Thursday, March 08, 2018 2:09 PM

To: Maggie Hogland

Cc: Christian Zupancic

Subject: Petersen VCA

Hi Maggie,

Christian and I have been communicating about settlement on this case based on our meeting with Judge Blake. The attached VCA is the proposal from Mr. Zupancic. We would like to inquire whether Judge Blake would be willing to accept these terms. I can say that my fees will be between \$1500 and \$2000.

Please advise so that we may formalize this agreement or continue to negotiate.

Thanks

--

Sincerely,

Stacy C. Rodriguez

Attorney at Law

PO Box 952

Cannon Beach, Oregon 97110

503-436-1960

Under recently issued IRS regulations, we must inform you that any US tax advice contained in this message was not intended or written to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under federal tax law. By regulation, a taxpayer cannot rely on professional advice to avoid federal tax penalties unless that advice is reflected in a comprehensive tax opinion that conforms to strict requirements.

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--
Sincerely,

Stacy C. Rodriguez

Attorney at Law

PO Box 952

Cannon Beach, Oregon 97110

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Attorney at Law

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Cannon Beach, Oregon 97110

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Stacy C. Rodriguez

Attorney at Law

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Cannon Beach, Oregon 97110

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FOR THE CITY OF MANZANITA
COUNTY OF TILLAMOOK, STATE OF OREGON

VOLUNTARY COMPLIANCE AGREEMENT

NAME: Sandra Petersen

MANZANITA PROPERTY ADDRESS: 181 Edmund, Manzanita, Oregon 97131

MAILING ADDRESS: PO Box 792, Greenacres, Washington 99016

Sandra Petersen is the owner of the address listed above which is located in the City of Manzanita, County of Tillamook, State of Oregon.

Sandra Petersen enters pleas of guilty to the charges listed on Citation Nos:
17-V-000524 A/B, 17-V-000525 A/B, 17-V-000526 A/B, 17-V-000580, 17-V-000581,
17-V-000582 A/B and agrees as follows:

1. The City agrees to hold this citation in exchange for the execution of this agreement.
2. The homeowner(s) agree to follow and abide by all terms of the short term rental/transient lodging tax ordinances of the City of Manzanita, specifically those portions of the ordinance that may be attached hereto and made a material part hereby reference.
3. I/We will keep the Court advised of any change of home ownership and/or change of mailing address.
4. Failure to comply with this Voluntary Compliance Agreement may result in execution of a Money Judgment in the amount of \$1,875,500.00, for the ordinance violations that are the subject of this agreement. I also agree that as part of this agreement, I will pay a fine in the amount of \$7,500.00 which includes reimbursing the City of Manzanita for the fees of the City Prosecutor.
5. This Voluntary Compliance Agreement will terminate two years from the date of execution of this agreement, at which time the City will dismiss the citation.

I hereby understand the terms, conditions and subsequent consequences and enter into the voluntary compliance agreement.

Homeowner Signature/ Printed Name
Sandra Petersen

Date

Agreement to terms/signature_____
City Prosecutor

Date

Agreement to terms/signature_____
Defendant Attorney

Date

1
2
3
4
5
6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF TILLAMOOK, CITY OF MANZANITA

8 CITY OF MANZANITA
9 Plaintiff,

10 v.


11 SANDRA J. PETERSEN,
12 Defendant.

) Case Nos. 17-V-000524 A/B, 17-V-000525
) A/B, 17-V-000526 A/B, 17-V-000580, 17-V-
) 000581, 17-V-000582 A/B

) MOTION FOR ORDER TO SHOW CAUSE
) RE: VIOLATION OF VOLUNTARY
) COMPLIANCE AGREEMENT
)

13
14
15 Stacy C. Rodriguez, Manzanita City Prosecutor, moves this Court for an Order to Show
16 Cause, if any exists why Sandra Petersen's Voluntary Compliance Agreement dated should not be
17 revoked and imposition of the full presumptive fine of \$1,875,500.00 should not be imposed. This
18 motion is supported by the attached Sworn Declaration of Counsel and the files and records herein.

19 DATED this 25th day of April, 2018.
20

21
22 
23 Stacy C. Rodriguez, OSB #004419
Manzanita City Prosecutor

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF TILLAMOOK, CITY OF MANZANITA

CITY OF MANZANITA

Plaintiff,

v.

SANDRA J. PETERSEN,

Defendant.

Case Nos. 17-V-000524 A/B, 17-V-000525
A/B, 17-V-000526 A/B, 17-V-000580, 17-V-
000581, 17-V-000582 A/B

SWORN DECLARATION OF COUNSEL
IN SUPPORT OF MOTION FOR ORDER
TO SHOW CAUSE

STATE OF OREGON

County of Clatsop

ss:

I, Stacy C. Rodriguez, Manzanita City Prosecutor, being first duly sworn, depose and say:


1. I write this affidavit in support of my Motion for Order to Show Cause Re: Violation
of the defendant's Voluntary Compliance Agreement.

2. Defendant, Sandra Petersen is subject to a Voluntary Compliance Agreement which
was approved by the court on April 20, 2018, signed nunc pro tunc to February 28, 2018.

3. On April 23, 2018, I received an affidavit from code enforcement officer, Judy
Wilson detailing violations of the Voluntary Compliance Agreement. See attached as
Exhibit 1, Judy Wilson's affidavit, incorporated by reference herein.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY
KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS
EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

DATED this 25 day of April, 2018.


Stacy C. Rodriguez, OSB #004419
Manzanita City Prosecutor

Based upon this police report and the filing of new charges, I am requesting the Court to issue a Show Cause Order requiring Sandra J. Petersen to appear and show cause why the Voluntary Compliance Agreement should not be revoked and the full presumptive fine imposed.

DATED this 23rd day of April, 2018


Judy Wilson, Manzanita Code Enforcement Officer 612

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF TILLAMOOK, CITY OF MANZANITA

CITY OF MANZANITA

Plaintiff,

v.

SANDRA J. PETERSEN,

Defendant.

Case Nos. 17-V-000524 A/B, 17-V-000525
A/B, 17-V-000526 A/B, 17-V-000580, 17-V-
000581, 17-V-000582 A/B

ORDER TO SHOW CAUSE
RE: VIOLATION OF VOLUNTARY
COMPLIANCE AGREEMENT

THIS MATTER came before the Court on City Attorney's Motion and Affidavit. The Court having reviewed the records and files herein, and finding good cause and necessity for this order and being fully advised;

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant, Sandra Petersen, appear before the Manzanita Municipal Court on August 10, 2018 at 2:00 p.m. to show cause, if any exists, why the Voluntary Compliance Agreement dated February 28, 2018 should not be revoked and the full presumptive fine should not be imposed.

DATED _____.

Larry Blake
Municipal Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF TILLAMOOK, CITY OF MANZANITA

CITY OF MANZANITA

Plaintiff,

v.

SANDRA J. PETERSEN,

Defendant.

Case Nos. 17-V-000524 A/B, 17-V-000525
A/B, 17-V-000526 A/B, 17-V-000580, 17-V-
000581, 17-V-000582 A/B

SWORN DECLARATION OF COUNSEL
IN SUPPORT OF MOTION FOR ORDER
TO SHOW CAUSE


I hereby certify that on the 18 day of April, 2018. I served the foregoing
Motion for Order to Show Cause Re: Violation of Voluntary Compliance Agreement, Sworn
Declaration in Support and Proposed Order on:

Christian Zupancic

christian@zuplaw.com

☒ by electronic mailing true copy/copies thereof, certified by me as such, to the e-mail address
designed for electronic communication at the individual's e-mail address as listed above.

DATED this 18 day of April, 2018.


Stacy C. Rodriguez, OSB# 004419
Manzanita City Prosecutor